

One-rdg. _____
P. Hrngs. 12-16-13
Pgs. 6
Filed: 12-10-13

Sponsored by: Burlison, Fisk
Hosmer, Seifried

First Reading: December 16, 2013
AMENDED
COUNCIL BILL NO. 2013-320

Second Reading: January 27, 2014
GENERAL ORDINANCE NO. 6096

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 78, Offenses and Miscellaneous
2 Provisions, Article I, In General, by adopting a new subsection
3 prohibiting panhandling within twenty feet of the entrance to any
4 business.
5
6

7 WHEREAS, the Park Central Square Task Force (Task Force) was charged with
8 researching and making recommendations to the City Manager regarding issues in the
9 downtown area, including reviewing current ordinances related to this geographic area;
10 and
11

12 WHEREAS, the Task Force recommended amending the City Code to add
13 Kansas City's code language regarding panhandling.
14

15 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
16 SPRINGFIELD, MISSOURI, as follows, that:
17

18 NOTE: Sections being added are underlined and sections being deleted are
19 ~~stricken~~.
20

21 Section 1 – The Springfield City Code, Chapter 78, Offenses and Miscellaneous
22 Provisions, Article I, In General, is hereby amended as follows:
23

24 **Sec. 78-2. Aggressive solicitation.**

25
26 (a) *Intent.*
27

28 (1) This section is intended to protect citizens from the fear and
29 intimidation accompanying certain kinds of solicitation that are
30 unwelcome. Aggressive solicitation usually includes approaching or
31 following pedestrians, repetitive soliciting despite refusals, the use of
32 abusive or profane language to cause fear and intimidation, unwanted
33 physical contact, or intentional blocking of pedestrian and vehicular traffic.

34 The council finds that the presence of individuals who solicit money from
35 persons at or near banks or automated teller machines or in public
36 transportation vehicles is especially troublesome because of the enhanced
37 fear of crime in those confined environments. Such activity carries with it
38 an implicit threat to both persons and property.
39

40 (2) The law is not intended to limit any person from exercising their
41 constitutional right to solicit funds, picket, protest or engage in other
42 constitutionally protected activities.
43

44 (b) *Definitions.* For purposes of this section, the following definitions shall
45 apply:
46

47 *Aggressive manner* means:
48

49 (1) Intentionally or recklessly making any physical contact with or touching
50 another person in the course of the solicitation without the person's
51 consent with the intent to intimidate;
52

53 (2) Following the person being solicited, if that conduct is:
54

55 a. Intended to or is likely to cause a reasonable person to fear
56 imminent bodily harm or the commission of a criminal act upon
57 property in the person's possession; or

58 b. Intended to or is reasonably likely to intimidate the person being
59 solicited into responding affirmatively to the solicitation;

60 (3) Continuing to solicit within five feet of the person being solicited after
61 the person has made a negative response, if continuing the solicitation is:

62 a. Intended to or is likely to cause a reasonable person to fear
63 imminent bodily harm or the commission of a criminal act upon
64 property in the person's possession; or

65 b. Intended to or is reasonably likely to intimidate the person being
66 solicited into responding affirmatively to the solicitation;
67

68 (4) Intentionally or recklessly blocking the safe or free passage of the
69 person being solicited with intent to intimidate, or requiring the person or
70 the driver of a vehicle to take evasive action to avoid physical contact with
71 the person making the solicitation. Acts authorized as an exercise of one's
72 constitutional right to picket or legally protest, and acts authorized by a
73 permit issued pursuant to this Code, shall not constitute obstruction of
74 pedestrian or vehicular traffic;
75

76 (5) Intentionally or recklessly using obscene or abusive language or
77 gestures intended to or likely to cause a reasonable person to fear
78 imminent bodily harm or the commission of a criminal act upon property in

79 the person's possession, or words intended to or reasonably likely to
80 intimidate the person into responding affirmatively to the solicitation; or
81

82 (6) Approaching the person being solicited in a manner that is:

83 a. Intended to or is likely to cause a reasonable person to fear
84 imminent bodily harm or the commission of a criminal act upon
85 property in the person's possession; or

86 b. Intended to or is reasonably likely to intimidate the person being
87 solicited into responding affirmatively to the solicitation.
88

89 *Automated teller machine* means a device, linked to a financial institution's
90 account records, which is able to carry out transactions, including but not limited
91 to account transfers, deposits, cash withdrawals, balance inquiries, and
92 mortgage and loan payments.
93

94 *Automated teller machine facility* means the area comprised of one or
95 more automated teller machines and any adjacent space which is made available
96 to banking customers after regular banking hours.
97

98 *Bank* means any banking corporation, credit union or savings and loan
99 licensed by the state or the United States of America.
100

101 *Intimidate* means to engage in conduct, which would make a reasonable
102 person fearful or feel compelled.
103

104 *Panhandling means any verbal solicitation made in person upon any*
105 *public street, sidewalk, alley, park or other public place, in which a person*
106 *requests an immediate donation of any item of value, monetary or otherwise from*
107 *another person, and includes but is not limited to seeking donations of any item*
108 *of value, monetary or otherwise:*
109

110 a. By spoken appeal; and
111

112 b. Where the person being solicited receives an item of little or no
113 monetary value in exchange for a donation, under circumstances
114 where a reasonable person would understand that the transaction
115 is in substance a donation.
116

117
118
119 *Public area* means an area to which the public or a substantial group of
120 persons has access, and includes but is not limited to alleys, bridges, buildings,
121 driveways, parking lots, parks, playgrounds, plazas, sidewalks and streets open
122 to the general public, and the doorways and entrances to buildings and
123 dwellings, and the grounds enclosing them.
124

Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word or by other means of communication.

(c) *Prohibited acts.* It shall be unlawful for any person to solicit money or other things of value or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area.

(2) In any public transportation vehicle or bus.

~~(3) Within 15 feet of any entrance or exit of any bank or check-cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank or automated teller machine without the consent of the owner or other person legally in possession of such facilities; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility.~~

~~(4)~~ (3) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property.

(4) By spoken, written or printed appeal within 5 feet of a curb edge, sidewalk, shoulder, intersection median, or highway off ramp.

(d) It shall be unlawful to panhandle in any manner, including within 20 feet, in any direction, from any entrance or exit to any:

(1) Office or office building;

(2) Commercial establishment engaged in the sale of goods or services;

(3) Bank, credit union, check cashing business, automated teller machine, or other financial institution;

(4) Single or multi-family residence or residential complex; or

(5) Within 20 feet of any outdoor dining area, outdoor restaurant, or outdoor café.

~~(d)~~ (e) *Construction and severability.*

(1) This section is not intended to proscribe any demand for payment for services rendered or goods delivered.

(2) This section is not intended to create a result through enforcement that is absurd, impossible or unreasonable. This section should be held inapplicable in any cases where its application would be unconstitutional under the constitution of the state or the Constitution of the United States of America.

Section 2 – Severability Clause. If any section, subsection, sentence, clause of phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses, or phrases be declared invalid.

Section 3 – Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or cause of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 4 – This ordinance shall be in full force and effect from and after passage.

Passed at meeting: January 27, 2014

Robert L. Stephen
Mayor

Attest: Brenda M. Cinto, City Clerk

Filed as Ordinance: January 27, 2014

Approved as to form: D. L. Wilson, City Attorney

Approved for Council action: Greg B. Smith, City Manager

EXPLANATION TO COUNCIL BILL NO. 2013-_____

FILED: 12-10-13

ORIGINATING DEPARTMENT: City Manager

PURPOSE: To amend the Springfield City Code, Chapter 78, Offenses and Miscellaneous Provisions, Article I, In General, by adopting a new subsection prohibiting panhandling within twenty feet of the entrance to any business.

BACKGROUND INFORMATION: The Park Central Square Task Force (Task Force) was charged with researching and making recommendations to the City Manager regarding issues in the downtown area. The Task Force reviewed current ordinances to determine if any updates were needed. On November 20, 2013, the Task Force presented an update to the Plans and Policies Council Committee. The Task Force recommended amending the City Code to include certain provisions from the Kansas City Code of Ordinances prohibiting all panhandling within twenty feet of the entrance or exit to any office, commercial establishment, single or multi-family residential complex, or within twenty feet of any outdoor café, restaurant, or dining area. The Task Force originally proposed that the amendment apply only to the downtown area. The Plans and Policies Committee requested that the City Attorney's Office draft an amendment that would apply city wide and include an additional provision prohibiting panhandling on traffic medians.

REMARKS:

Submitted and approved by:



Greg Burris, City Manager